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FAHNERT, MARISOL				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/568,976

Applicant(s)

BIENAS ET AL.

Examiner

MARISOL FAHNERT

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Art Unit-Location

The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

This action is in response to Applicant's amendment filed on June 14, 2004.

Claims 19-36 are pending in the present application. **This Action is made FINAL.**

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless – (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 19-36 are rejected under 35 USC 102 (b) as being anticipated by Mousley (US 6,907,015).

Claim 19

Mousley discloses a method for selecting a transmission channel for transmission and sending a message from a mobile terminal to a base station, comprising: initially sending from the mobile terminal a send authorization request signal for a specific transmission channel to the base station (column 3, lines 30-36); sending from the base station to the mobile terminal a response signal containing a first decision value,

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indicating whether the mobile terminal is authorized to send a message on the specific transmission channel (column 3, lines 46-50); if the first decision value indicates the mobile terminal is refused authorization to use the specific transmission channel and the mobile terminal is authorized to send a message on another transmission channel the response signal includes a second decision value (column 4, lines 40-46); the mobile terminal, upon detection that the first decision value in the response signal is negative, analyzing the response signal to determine whether the second decision value is included in the response signal, indicating authorization of the mobile terminal to send a message on another transmission channel (column 2, lines 19-23), and which other transmission channels are available for use by the mobile terminal (column 4, lines 48-50); and sending the message by the mobile terminal to the base station on one of the transmission channels available (column 5, lines 55-57).

Claim 20

The transmission channel to be selected is one of a number of logical channels implemented by using different channelization codes on a physical transmission channel used jointly by a number of terminals for transfer of messages to the base station (column 1, lines 12-15).

Claim 21

The sending of the response signal includes encoding at least one of the second decision values and the channel status information (column 4, lines 40-44).

Claim 22

The sending of the response signal includes encoding at least one of the second decision value and the channel status information if included, so that the first decision value can be decoded unchanged by the mobile terminal, regardless of whether the second decision value is included in the response signal (column 5, lines 43-47).

Claim 23

A first set of signature character sequences is used for encoding the first decision value in the response signal and the encoding of at least one of the second decision value and the channel status information in the response signal uses at least one signature character sequence orthogonal to the first set of signature character sequences (column 5, lines 49-52, discloses two orthogonal sets of signatures: one and its inverses for decision values and the other and its inverses for channel status information.)

Claim 24

A method in accordance with claim 23, wherein the at least one signature character sequence used for encoding the at least one of the second positive decision value and the channel status information is created by multiplying each second character of a signature character sequence of the first signature character sequence set by -1 (Mousley, Column 3, lines 11-29 defines a mutually orthogonal set of signature character sequences multiplying by -1 all the characters of the original sequence, which includes multiplying by -1 every other character.)

Claim 25

A method in accordance with claim 24, wherein said encoding of the at least one of the second decision value and the channel status information in the response signal uses a second set of signature character sequences, with each signature character sequence of the second signature character sequence set created from a corresponding signature character sequence of the first signature character sequence set by multiplying each second character by -1. (Moulsley, Column 3, lines 11-29 defines a mutually orthogonal set of signature character sequences multiplying by -1 all the characters of the original sequence, which includes multiplying by -1 every other character.).

Claim 26

The encoding of at least one of the second decision value and the channel status information in the response signal uses a character string encoded with a specific signature character sequence orthogonal to the first signature character sequence set to jointly transfer the second decision value with the channel status information (column 5, lines 43-52).

Claim 27

The specific signature character sequence is assigned to the base station (column 5, lines 43-52, discloses assigning to the base station a first set of signatures and their inverses for sending decision values and another set and its inverses for sending channel assignments.)

Claim 28

The first signature character sequence set is assigned to a specific transmission channel over which the mobile terminal has previously sent an access preamble to the base station, and wherein said encoding of the second decision value uses a specific signature character sequence orthogonal to the first signature character sequence set (column 5, lines 43-52).

Claim 29

The channel status information includes a third decision value for each occupied transmission channel indicating unavailability (column 4, lines 46-53, discloses a base station sending a mobile terminal a decision value with information about available channels. From this message, the mobile terminal may know what channels are unavailable.)

Claim 30

The sending of the response signal includes encoding each of the third decision values with the signature character sequences from the first set of signature character sequences assigned to the occupied transmission channels (column 4, lines 46-53, discloses a base station sending a mobile terminal a decision value with information about available channels. From this message, the mobile terminal may know what channels are unavailable.)

Claim 31

The sending of the response signal includes encoding each of the third decision values with signature character sequences of the second set of signature character sequences assigned to relevant transmission channels (column 4, lines 46-53, discloses a base station sending a mobile terminal a decision value with information about available channels.)

Claim 32

A method for selecting a transmission channel for transmission of messages from a mobile terminal to a base station, comprising: initially receiving at the base station of the mobile terminal a send authorization request signal for a specific transmission channel (column 3, lines 30-36); and sending from the base station to the mobile terminal a response signal containing a first decision value indicating whether the mobile terminal is authorized to send a message on the specific transmission channel (column 3, lines 46-50) and, if the first decision value indicates the mobile terminal is refused authorization to use the specific transmission channel and the mobile terminal is authorized to send a message on another transmission channel, the response signal includes a second decision value (column 4, lines 40-46).

Claim 33

A method for selecting a transmission channel and transmission of messages from a mobile terminal to a base station, comprising: initially sending from the mobile terminal to the base station an access preamble for a specific transmission channel (column 3, lines 30-36); receiving a response signal at the

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mobile terminal from the base station; detecting at the mobile terminal a first decision value in the response signal, indicating whether the mobile terminal is authorized to send a message on the specific transmission channel (column 3, lines 46-50); analyzing at the mobile terminal, upon detection that the first decision value indicates refusal of authorization for the mobile terminal to send the message on the specific transmission channel, the response signal to determine whether a second decision value therein indicates authorization for the mobile terminal to send the message on another transmission channel and which other transmission channels are available (column 4, lines 40-51); and sending the message by the mobile terminal to the base station on one of the transmission channels available (column 5, lines 55-57).

Claim 34

A base station with a transceiver unit and a processor unit for selecting a transmission channel for transmission of messages from a mobile terminal to the base station, comprising a decoding device detecting a send authorization request signal sent by the mobile terminal for a specific transmission channel (column 3, lines 34-36); a channel release unit determining which transmission channels are currently available for sending a message (column 4, lines 48-50); and an encoding device generating a response signal to the mobile terminal containing a first decision value indicating whether the mobile terminal is authorized to send the message on the specific transmission channel (column 3, lines 46-50) and containing a second decision value when the first decision

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value indicates refusal of authorization for the mobile terminal to send the message on the specific transmission channel and the mobile terminal is authorized to send a message on another transmission channel (column 4, lines 40-46).

Claim 35

The reference (column 1, lines 1-22) mentions UMTS in the description of the related art. A UMTS comprehend several base stations.

Claim 36

A mobile terminal selecting a transmission channel for transmission of messages from the mobile terminal to a base station, comprising: a processor generating a send authorization request signal for a specific transmission channel (column 3, lines 30-36) and decoding a response signal sent by the base station to detect a first decision value indicating whether the mobile terminal is authorized to send a message on the specific transmission channel (column 3, 40-46), said decoding device, upon detection of a first decision value indicating refusal of authorization to send the message on the specific transmission channel, analyzing the response signal to determine whether a second decision value is included therein authorizing the mobile terminal to send the message on another transmission channel (column 2, lines 19-23) and indicating which other transmission channels are available (column 4, lines 49-50); and a transceiver unit sending the message to the base station on one of

the transmission channels available (column 5, lines 53-57).

Response to Arguments

Applicant's arguments with respect to Claims 19-36 filed on February 6, 2009 have been fully considered but they are not persuasive.

Regarding Claim 19, Applicant argues, on page 7, last paragraph, that Claim 19 patentable distinguishes over Mousley because, in lines 30-45 in col. 3, Mousley discloses an access preamble message repeated until receiving a preamble acknowledgement from the base station.

The examiner respectfully disagree because (Fig. 5 and col. 3, lines 30-45) this repeated access preamble message is the part of Mousley's method in which the mobile terminal selects the necessary level of power to communicate with the base station.

On page 8, first paragraph, the applicant argues that Mousley does not disclose a second decision value.

The examiner respectfully disagree because (col. 4, lines 33-46) Mousley discloses that when the mobile station selected channel is unavailable the base station signal allocation of a channel at the same time as the access acknowledgement. This signal allocation is a second decision value.

On page 8 second paragraph, the applicant argues that Mousley signals allocation of a channel with a positive acknowledgement but not in combination

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with a negative acknowledgement or that Mousley discloses that allocation of a channel for uplink transmissions is only associated with a positive acknowledgement, while according to claim 19, a negative acknowledgment is transmitted from the base station, but authorization is given to send the message on another channel.

The examiner respectfully disagree because (col. 3, lines 46-50) Mousley discloses positive and negative acknowledgements and (on col. 4, lines 40-46) he discloses the allocation forming part of the acknowledgement. This channel allocation is in combination with a negative acknowledgement.

In the same paragraph the Applicant further argues that Mousley discloses an access preamble message repeated with higher and higher power until receiving a preamble acknowledgement from the base station.

The examiner respectfully disagree because (Fig. 5 and col. 3, lines 30-45) this repeated access preamble message is the part of Mousley's method in which the mobile terminal selects the necessary level of power to communicate with the base station.

Applicant argues that Mousley's col. 4, lines 48-50, cited by the Examiner, according to which the base station also transmits or broadcasts a packet channel availability (AV) message, cannot be regarded equivalent to the indicated authorization in Claim 19 because according to col. 4, lines 60-82 of Mousley, such an AV message is received by the mobile station in step 504, i.e.,

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before it has even sent the first signature, but no together with a negative acknowledgement refusing authorization to use a requested specific channel.

The examiner respectfully disagree because going for the first time from step 502 to step 506 on Fig. 5 the AV message is received before the negative acknowledgement but after the first time in the loop, all the other times that the method goes again through the steps 504 -506 the AV message is received after the negative acknowledgement.

In view of the above, and having addressed Applicant's arguments, the previous rejection is maintained and made FINAL by the Examiner.

Conclusion

THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136 will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquire concerning this communication or earlier communications from the examiner should be directed to Marisol Fahnert, whose telephone number is 571 270 7512. The examiner can normally be reached on Monday-Friday 7:00-3:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lewis West can be reached on 571 272 7859. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published application may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866 217 9197.

/MARISOL FAHNERT/

Examiner, Art Unit 4172

/Rafael Pérez-Gutiérrez/

Supervisory Patent Examiner, Art Unit 2617